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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/426,793	10/23/1999	DONALD C MANN	5555413436/0	2355

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EXAMINER

FRECH, KARL D

ART UNIT	PAPER NUMBER
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2876

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DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/426,793

Applicant(s)

MANN ET AL.

Examiner

Karl D Frech

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-45 and 74-104 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-16 is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7-13,17,21-26 and 32-45 is/are rejected.
- 7) ☒ Claim(s) 4,6,18-20 and 27-31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. Applicant's election of Group I, claims 1-45,74-104 is acknowledged. Claims 46-73,105-115 have been withdrawn from consideration. Applicant is reminded that, should the current application become allowable, the non considered claims must be formally canceled from the application.

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3,5,7-13,17,21-26,32-45,74-104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drexler 4,683,371. Drexler discloses as seen in figures 3 and 4 a magnetic

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stripe card which contains magnetic stripes 25 and 27 on a substrate. There are transparent laminating sheets 29 on either side of the card (col 6 lines 39+). Drexler does not disclose the specific density, permeability, orientation of the magnetic stripe or characteristics of the laminating sheet 29. However, certain of these features are inherent features of the stripes, or are old and well known features for magnetic stripes and/or laminating substances. Magnetic stripes provide for a magnetic field of given strength and orientation. There is no criticality to these specific features disclosed. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use field strength and orientation in order to best produce a readable card as a matter of design choice. Regarding the claimed features of the protective layer, in order for Drexler's invention to be workable, there must be inherent features of the protective layer 29 which would allow a known inductive magnetic head to pick up the field strength and orientation of the magnetic stripe on the card of Drexler. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a protective layer with these inherent and known features to allow for maximum performance of the card/card reading system.

5. Claims 14-16 are allowable over the prior art of record and claims 4,6,18-20,27-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or fairly suggest to one of ordinary skill in the art that the protective layer is made of two distinct layers and that the magnetic data storage device is

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circular on a basically rectangular substrate, as claimed in conjunction with all the other limitations of claims 4,6,14-16,18-20 and 27-31 respectively.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Urushibata 5,979,774, Hynes et al 3,838,252, Takeda et al 4,754,128, Hoshino et al 5,756,220, Darjany 4,058,839 all disclose magnetic stripe cards with protective layers over the magnetic stripes.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Frech whose telephone number is (703) 305-3491. The examiner's supervisor is Michael Lee whose telephone number is (703)305-3503. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center receptionist whose telephone number is (703)308-0956. The Tech Center fax number is (703) 308-7722.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [karl.frech@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.



Karl D. Frech  
Primary Examiner, AU 2876  
September 27, 2002